

HOUSE BILL No. 1314

DIGEST OF HB 1314 (Updated January 22, 2002 12:01 PM - DI 96)

Citations Affected: IC 4-15; IC 9-13; IC 9-15; noncode.

Synopsis: BMVC employee reports of whistleblower violations. Establishes certain protections for an employee of the bureau of motor vehicles commission (BMVC) who reports a violation of federal, state, or local laws or the misuse of public funds. Requires the BMVC to adopt a disciplinary personnel policy by rule that provides that if the result of a disciplinary appeal is not agreeable to the employee, the employee is entitled to institute a civil suit for a further appeal of the discipline, and that a prevailing employee is entitled to costs of the action.

Effective: Upon passage.

Liggett

January 15, 2002, read first time and referred to Committee on Labor and Employment. January 22, 2002, reported — Do Pass.





Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in this style type, and deletions will appear in this style type.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or *this style type* reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1314

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

SE	CTION	1.	IC	4-15-10-1	IS	AMENDED	TO	READ	AS
FOLL	OWS [E	FFI	ECT	IVE UPON	PA	SSAGE]: Sec.	1. A	s used in	this
chapte	r:								

"Agency" means any state administration, agency, authority, board, bureau, commission, committee, council, department, division, institution, office, service, or other similar body of state government created or established by law. However, the term does not include **the following:**

- (1) State colleges and universities.
- (2) The bureau of motor vehicles commission unless the bureau of motor vehicles commission has decided to be under the jurisdiction and rules adopted by the state ethics commission, as provided in IC 9-15-2-2.2(a)(2).

"Appointing authority" means the individual or group of individuals who have the power by law or by lawfully delegated authority to make appointment to a position in an agency.

"Employee" means an employee of an agency except an elected

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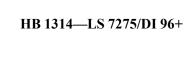
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1	official.
2	"Supervisor" means an individual who oversees the daily activity of
3	an employee.
4	SECTION 2. IC 9-13-2-176.5 IS ADDED TO THE INDIANA
5	CODE AS A NEW SECTION TO READ AS FOLLOWS
6	[EFFECTIVE UPON PASSAGE]: Sec. 176.5. "Supervisor", for
7	purposes of IC 9-15-2, has the meaning set forth in IC 9-15-2-0.5.
8	SECTION 3. IC 9-15-2-0.5 IS ADDED TO THE INDIANA CODE
9	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
0	UPON PASSAGE]: Sec. 0.5. As used in this chapter, "supervisor"
.1	means an individual who oversees the daily activity of an employee
2	SECTION 4. IC 9-15-2-3 IS ADDED TO THE INDIANA CODE
3	AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
4	UPON PASSAGE]: Sec. 3. (a) If the commission has established a
.5	code of ethics for its employees under section 2.2(a) of this chapter.
6	an employee of the commission may submit a written report to the
7	employee's supervisor or a person employed in a higher position by
8	the commission concerning the existence of a violation of a federal
9	law or regulation, a violation of a state law or rule, a violation of an
20	ordinance of a county or municipality (as defined in IC 36-1-2-11).
21	or the misuse of public resources. However, if:
22	(1) the employee believes that the supervisor and the person
23	employed in a higher position by the commission are
24	committing a violation or misuse of public resources; or
25	(2) the employee reports the suspected violation or misuse to
26	the supervisor or person employed in a higher position by the
27	commission and a good faith effort is not made to correct the
28	problem within a reasonable time;
29	the employee may submit a written report of the violation or
30	misuse to any person, agency, commission, or organization.
31	(b) If an employee submits a report under subsection (a), the
32	employee may not:
33	(1) be dismissed from employment;
34	(2) have salary increases or employment related benefits
35	withheld;
86	(3) be transferred or reassigned;
37	(4) be denied a promotion the employee otherwise would have
88	received; or
39	(5) be demoted;
10	solely for submitting the report.
1	(c) Notwithstanding subsections (a) and (b), an employee must



1	information submitted in a report and may be subject to	
2	disciplinary actions, including suspension or dismissal, for	
3	knowingly furnishing false information, as determined by the	
4	employee's supervisor.	
5	(d) An employee disciplined under subsection (c) may appeal the	
6	disciplinary action under the procedure set forth in a personnel	
7	policy adopted by a rule of the commission. The rule must provide	
8	that, if the result of the decision reached in the appeal is not	
9	agreeable to the employee, the employee may institute a civil action	
10	to appeal the disciplinary action. The preferred venue for the civil	
11	action is in the county in which the employee is employed.	
12	(e) If the employee prevails in a civil action brought under	
13	subsection (d), the court shall allow the employee reasonable	
14	attorney's fees, including litigation expenses, and costs.	
15	SECTION 5. [EFFECTIVE UPON PASSAGE] (a)	
16	Notwithstanding IC 9-15-2-3, as added by this act, the bureau of	
17	motor vehicles commission shall adopt a personnel policy that	
18	includes a disciplinary procedure described in IC 9-15-2-3(d), as	
19	added by this act. The policy must provide that, if the result of the	
20	decision reached in the appeal is not agreeable to the employee, the	
21	employee may institute a civil action to appeal the disciplinary	
22	action. The bureau of motor vehicles commission shall carry out	
23	the duties imposed on it by IC 9-15-2-3, as added by this act, under	
24	interim written guidelines approved by the bureau of motor	
25	vehicles commissioner.	
26	(b) This SECTION expires on the earlier of the following:	
27	(1) The date rules are adopted under IC 9-15-2-3, as added by	
28	this act.	W
29	(2) January 1, 2003.	
30	SECTION 6. An emergency is declared for this act.	



COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1314, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LIGGETT, Chair

Committee Vote: yeas 10, nays 2.

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